



THE CITY OF NEW YORK  
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February 3, 2020

BY E.C.F.

Honorable Sanket J. Bulsara  
United States Magistrate Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Peter Martin v. City of New York, et al.  
18 CV 3241 (CBA) (SJB)

Your Honor:

I am an Assistant Corporation Counsel in the Office of James E. Johnson, Corporation Counsel of the City of New York, and represent the defendants in the above-captioned case. I respectfully write in response to the Court's January 27, 2020 Order to Show Cause regarding the parties' failure to appear for an in-person status conference.

Please know that my failure to appear at the court conference on January 27 was not intentional. Unfortunately, I did not have that court conference listed on my calendar. It is unclear to me why that date did not make it into my calendar, because all of the other dates from the Court's October 3, 2019 Order did. Although most of the dates from the October 3, 2019 Order were changed by the Court's January 9, 2020 Order extending discovery, I do understand that the Court did not adjourn the January 27 conference, and do not believe that I would have removed it from my calendar without seeing an adjournment. Accordingly, I believe that I must have erred in not saving the date in my calendar at the time that I was calendaring the dates from the Court's October 3, 2019 Scheduling Order. In any event, I accept full responsibility for my failure to properly calendar the Court conference which resulted in my failure to appear in Court on January 27, and pray that the Court will accept my sincerest apologies for this error.

Regrettably, I was out sick on Monday, January 27, the date of the conference, as well the following Wednesday. Had I been in the office when the Court called, I certainly would have made every effort to come directly to Court to make an appearance. Although I was not in the office, I was checking my e-mail and voicemail periodically throughout the day, and called the Your Honor's Case Manager back as soon as I received the message about the conference.

The parties have been working well together to complete a significant amount of discovery in this matter. Although the inconvenience to the Court cannot be overstated, we don't believe that either of the parties was prejudiced, as it appears that both parties failed to appear.

Again, my failure to appear for the conference was inadvertent and not willful. Had I been in a position to immediately travel to the Court for an appearance when the Court called on January 27, I certainly would have. I beg for the Court's forgiveness, and can assure the Court that this will not happen again. To the extent that the Court reschedules the conference for another date, defense counsel will certainly be present.<sup>1</sup>

Defendants thank the Court for its time and consideration in this regard, and again apologize for the inconvenience caused to the Court.

Respectfully submitted,



Matthew W. McQueen  
Special Federal Litigation Division

cc: Thomas Kissane, Esq. (by E.C.F.)  
*Attorney for Plaintiff*

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<sup>1</sup> For the convenience of the Court, I have conferred with plaintiff's counsel, Thomas Kissane, in order to provide the Court with the parties' availability for an rescheduled conference. Fact discovery is currently set to close on February 14, 2020. In the event that the Court intends to reschedule the missed conference to another date this month, the parties are both currently available on February 6, 2020; February 7, 2020 (after 11:00 AM); February 10, 2020; February 11, 2020; February 25, 2020; February 26, 2020 (morning at or before 11:00 AM); February 27, 2020 or February 28, 2020. Please note that counsel for both parties currently anticipate going out of town during the week of February 17 to February 21, 2020, and respectfully request that the Court not schedule a conference during that week.